

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Appeals for
the Federal Circuit and the United
States Court of International Trade

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THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

19 CFR Part 4

(T.D. 86-123)

Customs Regulations Amendment Adding Austria to List of Countries Whose Pleasure Vessels Are Entitled To Be Issued U.S. Cruising Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding Austria to the list of countries whose pleasure vessels may be issued U.S. cruising licenses. Customs has been informed that yachts used and employed exclusively as pleasure vessels belonging to any resident of the U.S. are allowed to arrive at and depart from Austrian ports and cruise in the waters of Austria without being subjected to formal entry and clearance procedures. Therefore, Customs is extending reciprocal privileges to Austrian-flag pleasure vessels.

EFFECTIVE DATE: These privileges became effective for Austria on April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Donald H. Reusch, Carriers, Drawback and Bonds Division (202-566-5706), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S. vessels documented with a pleasure license endorsement, used exclusively for pleasure, not engaged in any trade, and not violating the customs or navigation laws of the U.S. may proceed from port to port in the U.S. or to foreign ports without entering and clearing, as long as they have not visited hovering vessels. When returning from a foreign port or place, such licensed U.S.

pleasure vessels are required to report their arrival pursuant to § 4.2, Customs Regulations (19 CFR 4.2).

Generally, foreign-flag yachts entering the U.S. are required to comply with the laws applicable for foreign vessels arriving at, departing from, and proceeding between ports of the U.S. However, as provided in § 4.94(b), Customs Regulations (19 CFR 4.94(b)), pleasure vessels from certain countries may be issued cruising licenses which exempt them from formal entry and clearance procedures (e.g., filing manifests, obtaining permits to proceed and paying entry and clearance fees). Upon arrival at each port of entry in the U.S., the master shall report the fact of arrival to the appropriate Customs officer. Yachts or pleasure vessels not carrying passengers or merchandise in trade are exempt from paying tonnage tax and light money in any case pursuant to § 4.21(b)(5), Customs Regulations (19 CFR 4.21(b)(5)). Cruising licenses are available to pleasure vessels of countries which extend reciprocal privileges to U.S. pleasure vessels. A list of these countries is set forth in § 4.94(b).

By diplomatic note dated April 14, 1986, the Austrian Embassy in Washington, D.C., informed the Department of State that the Government of Austria permits yachts used and employed exclusively as pleasure vessels and belonging to any resident of the U.S., to arrive at and depart from ports of Austria and cruise the waters of Austria without entering and clearing Austrian Customs, and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes, or charges for cruising licenses.

The Department of State informed Customs Headquarters by a letter dated May 13, 1986. The Carriers, Drawback and Bonds Division of Customs is of the opinion that satisfactory evidence has been furnished to establish the reciprocity required in § 4.94(b). Therefore, on May 21, 1986, the Director of that division determined that, effective retroactively to April 21, 1986, Austria should be added to the list of countries set forth in § 4.94(b).

By virtue of the authority vested in the President by § 5 of the Act of May 28, 1908, 35 Stat. 425, as amended (46 U.S.C. 104), the President has delegated the authority to issue these cruising licenses to the Secretary of the Treasury by E.O. 10289, September 17, 1951. By Treasury Department Order 165-25, the Secretary of the Treasury delegated authority to the Commissioner of Customs to prescribe regulations relating to § 4.94(b) and other sections of the Customs Regulations relating to lists of countries entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the U.S. Subsequently, by Customs Delegation Order No. 66 (T.D. 82-201), dated October 13, 1982, the Commissioner delegated authority to amend this section to the Assistant Commissioner (Commercial Operations), who redelegated this authority to the Director, Office of Regulations

and Rulings, who then redelegated it to the Director, Regulations Control and Disclosure Law Division.

FINDING

On the basis of the information received from the Government of Austria and the Department of State, as described above, it has been determined that the U.S. is in possession of satisfactory evidence regarding the passage of U.S. pleasure vessels through the ports and waters of Austria without their being subjected to formal entry and clearance procedures. Therefore, Austria is added to the list of countries whose pleasure vessels may be issued U.S. cruising licenses.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this amendment merely implements a statutory requirement and involves a matter in which the majority of the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

THE REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other statute.

EXECUTIVE ORDER 12291

This amendment does not meet the criteria for a major regulation as defined in § 1(b) of E.O. 12291. Accordingly, a major impact analysis is not required.

DRAFTING INFORMATION

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 4

Customs inspection and duties, Imports, Vessels, Yachts.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for Part 4 continues to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 3, 2103.

§ 4.94 also issued under 19 U.S.C. 1433, 1434, 1435, 1441; 46 U.S.C. 91, 104, 313, 314.

§ 4.94 [Amended]

2. Section 4.94(b), Customs Regulations (19 CFR 4.94(b)), is amended by inserting, in appropriate alphabetical order, the word, "Austria", to the list of countries whose yachts or pleasure vessels may be issued U.S. cruising licenses.

Dated: June 25, 1986.

B. JAMES FRITZ,
*Director, Regulations Control
and Disclosure Law Division.*

[Published in the Federal Register, July 3, 1986 (51 FR 24322)]

19 CFR Part 12

(T.D. 86-124)

Entries of Textiles and Apparel Exported From Japan

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Policy statement

SUMMARY: This document advises that a mandatory "live" entry will be required by Customs for certain shipments of textiles and apparel exported from Japan and entered or withdrawn from warehouse for consumption in the U.S. A "live" entry consists of, among other things, the filing of sufficient documentation to enable Customs to appraise, classify, and determine the admissibility of the merchandise. It also requires the payment of estimated duty prior to release of the merchandise. This action is necessary to prevent circumvention of quota and visa requirements by transshipping merchandise through Japan and entering it as a product of Japan.

EFFECTIVE DATE: July 7, 1986.

FOR FURTHER INFORMATION CONTACT: William Marchi, Commercial Compliance Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2957).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to several bilateral and multilateral international trade agreements to control the importation of textiles and apparel, the U.S. has taken certain actions towards restraining trade in these articles. These actions have included the setting of import limitations (quotas) on disruptive imports and the establishment of visa or export license requirements with foreign countries.

Notwithstanding vigorous enforcement measures taken by Customs to enforce quota and visa requirements, large-scale abuses in Japan still exist with respect to shipments from Japan. This is in larger part due to various schemes currently used by importers and exporters to circumvent the quota and visa restrictions. One such scheme, the transshipping of textiles and apparel through Japan, and entering it into the U.S. as a product of Japan, has resulted in the fraudulent entry of an estimated 50 to 80 million yards of fabric. Under this scheme, goods are imported into a free trade zone and invoiced by the buyer as a product of Japan. They are then exported to the U.S. with a false country of origin marking. Thus, the exporter and importer have successfully circumvented the quota and visa requirements on the merchandise from the actual country of origin.

Customs has identified the textiles and apparel most often involved in this transshipment scheme as woven fabric of man-made fibers classifiable under textile category number 612 (items 338.4004, 338.4005, 338.5003, 338.5005, 338.5008 through 338.5022, and 338.5024 through 338.5036, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202)).

ACTION

With respect to merchandise in textile category 612 which was exported from Japan and is being entered or withdrawn from warehouse for consumption in the U.S. on or after July 7, 1986, the following procedures will apply:

- (1) The merchandise must be entered under the entry/entry summary procedures ("live formal entry") set forth in § 142.11 *et seq.*, Customs Regulations (19 CFR 142.11 *et seq.*), before its release under the provisions of § 142.13(c)(2), Customs Regulations (19 CFR 142.13(c)(2)). This entails, among other things, the filing of sufficient documentation to enable Customs to appraise, classify, and determine the admissibility of the merchandise. It also requires the payment of estimated duty prior to release of the merchandise;
- (2) All documentation relating to textile category 612 merchandise must be reviewed by a Customs import specialist before release of the merchandise; and
- (3) The merchandise will be subject to intensive physical examination.

In conjunction with these procedures, Customs field officers have been alerted to the possibility that efforts may be made to pass off fabrics consisting of blends of man-made fibers and cotton as cotton goods (e.g., under item 326.00, TSUS), when, in fact, the merchandise is in chief value of man-made fibers and therefore subject to the restraints placed upon textile category 612 merchandise.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: June 13, 1986.

FRANCIS A. KEATING II,

Assistant Secretary of the Treasury.

[Published in the Federal Register, July 1, 1986 (51 FR 23736)]

(T.D. 86-125)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued December 20, 1985, to March 19, 1986, inclusive, pursuant to Subpart C, Part 191, Customs Regulations; and an approval under T.D. 84-49.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

(DRA-1-09)

Dated: June 25, 1986.

File: 218916.

EDWARD B. GABLE, Jr.,

Director,

Carriers, Drawback and Bonds Division.

(A) Company: Andrew Crowe & Sons, Inc.

Articles: Rope, cordage, and twine

Merchandise: Nylon yarn; polyester yarn

Factories: Warren (2), Belfast, Unity, and Liberty, ME

Statement signed: November 30, 1984

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Boston, February 11, 1986

(B) Company: Appleton Papers, Inc.

Articles: NCR Paper® band of carbonless copy paper

Merchandise: Uncoated base stock paper

Factories: Appleton, Portage and Combined Locks, WI; Camp Hill and Roaring Spring, PA; West Carrollton, OH

Statement signed: November 15, 1985

Basis of Claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Boston, (Baltimore Liquidation), February 11, 1986

(C) Company: AT&T Nassau Metals Corporation

Articles: Continuous cast copper wire

Merchandise: Electrolytically refined cathode copper

Factory: Gaston, SC

Statement signed: September 11, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Miami, February 25, 1986

(D) Company: Bessonet Bee Company, Inc.

Articles: Finished honey

Merchandise: Raw honey

Factory: Donaldsonville, LA

Statement signed: September 16, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: New Orleans, February 11, 1986

(E) Company: Borden Industrial Food Products, Inc.

Articles: Frozen concentrated lemon juice and reconstituted lemon juice

Merchandise: Concentrated lemon juice for manufacturing

Factories: Indio, CA; Waterloo, NY; Chicago, IL

Statement signed: June 3, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Los Angeles and Los Angeles (San Francisco Liquidation), March 12, 1986

(F) Company: Boundary Fish Company

Articles: Finished dogfish products

Merchandise: Whole shark

Factory: Blaine, WA

Statement signed: November 22, 1985

Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation

Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), March 14, 1986

(G) Company: Celanese Chemical Company, Inc.

Articles: Acetic acid; vinyl acetate; methyl acrylate; formaldehyde (crude and finished and merchant grades); paraformaldehyde; formcel® methyl alcohol solution; formcel® normal butyl alcohol solution; methyl formate; methylal (dimethoxymethane); ethyl acetate; propyl acetate; butyl acetate; isobutyl acetate; acetic anhydride; trimethylolpropane (TMP); pentaerythritol (PE); pentaerythritol triacrylate (PETA); trimethylolpropane triacrylate (TMPTA); trimethylolpropane trimethacrylate (TMPTMA); cellulose acetate flake; cellulose acetate cigarette tow; cellulose acetate filament yarn; cellulose acetate staple fiber; cellulose acetate

fiber batting; cellulose acetate molding material; cellulose acetate extruded sheeting; cellulose acetate cast products; cellulose triacetate flake, yarn and staple fiber; acetal copolymer, sold under the trademark CELCON® et al.

Merchandise: Methanol

Factories: BAY City, Bishop, Houston, and Pampa, TX; Newark, NJ; Rock Hill, SC; Cumberland, MD; Narrows, VA

Statement signed: September 27, 1985

Basis of claim: Used in; appearing in, when valuable wastes exist
Rate forwarded to Regional Commissioners of Customs: New York
and Houston, February 18, 1986

Revokes: T.D. 85-1-F

(H) Company: Chevron Chemical Company

Articles: Lubricating oil additives

Merchandise: Neutral calcium sulfonate (Surpass S-301A and
OLOA 246A)

Factory: Belle Chasse, LA

Statement signed: October 24, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioners of Customs: Los Angeles (San Francisco Liquidation) and New Orleans, January 21, 1986

(I) Company: Chevron Research Company

Articles: Catalysts

Merchandise: Molybdc oxide

Factory: Elyria, OH

Statement signed: June 28, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), March 12, 1986

(J) Company: Collins & Aikman Corporation

Articles: Spun yarn of various compositions

Merchandise: Dyed and undyed nylon, acrylic, rayon, polyester and
polypropylene staple fiber

Factories: Norwood and Troy, NC

Statement signed: August 19, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
December 20, 1985

(K) Company: Dri-Print Foils, Inc.

Articles: Hot stamping foils—printing decoration for plastic, wood
and paper and other products produced in a similar manner

Merchandise: Polyester film

Factory: Rahway, NJ

Statement signed: January 16, 1986

Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs in accordance
with section 191.25(b)(2), Customs Regulations: New York, March
19, 1986
Revokes: T.D. 82-225-A, to cover successorship from Beatrice Com-
panies, Inc.

(L) Company: Ferguson Perforating and Wire Co.
Articles: Brass sheets, perforated; copper sheets, perforated; brass
wire cloth; and sugar mill machinery repair parts
Merchandise: Brass strip, brass wire, copper strip, and copper sheet
Factory: Providence, RI
Statement signed: August 13, 1985
Basis of claim: Appearing in
Rate forwarded to Regional Commission of Customs: Boston,
February 6, 1986

(M) Company: GAF Corporation
Articles: Polybutylene terephthalate compounds
Merchandise: Polybutylene terephthalate
Factories: Lenden, NJ; Texas City, TX; Calvert City, KY; and facto-
ries of agents under T.D.s 55207(1) and 55027(2)
Statement signed: December 16, 1985
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: New York,
February 7, 1986

(N) Company: GNB Incorporated
Articles: Lead oxide; antimonial lead; calcium lead; pig lead
Merchandise: Pig lead; metallic antimony
Factories: Los Angeles, CA; Frisco, TX; St. Paul, MN
Statement signed: January 22, 1986
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs in accordance
with section 191.25(b)(2), Customs Regulations: New York, March
18, 1986
Revokes: T.D. 85-106-A, to cover name change from GNB Batter-
ies, Inc.

(O) Company: Harsco Corporation, Astro Metallurgical Division
Articles: Alloyed and unalloyed titanium mill products and fabrica-
tions
Merchandise: Commercially pure titanium and titanium 6AL/4V
materials
Factory: Wooster, OH
Statement signed: October 2, 1985
Basis of claim: Used in and used in less valuable waste
Rate forwarded to Regional Commissioner of Customs: New York,
February 18, 1986
Revokes: T.D. 78-254-B and T.D. 85-41-M

(P) Company: Harvey Titanium, Ltd.

Articles: Titanium alloy rough forgings

Merchandise: Titanium alloy billet and bar

Factory: Santa Monica, CA

Statement signed: May 7, 1985

Basis of claim: Used in, less valuable waste

Rate forwarded to Regional Commissioner of Customs: New York,
March 17, 1986

(Q) Company: Hercules Incorporated

Articles: Kymene resins

Merchandise: Bis-hexamethylene triamine

Factories: Savannah, GA; Milwaukee, WI; Portland, OR

Statement signed: November 9, 1984

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Boston (Baltimore Liquidation), January 15, 1986

(R) Company: Hoffmann-LaRoche, Inc.

Articles: Ascorbic acid ultra fine and fine powder; ascorbic acid type S; ascorbic acid granular and fine granular; sodium ascorbate fine powder, fine granular and type AG

Merchandise: Ascorbic acid crystalline

Factory: Belvidere, NJ

Statement signed: January 22, 1986

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
March 17, 1986.

(S) Company: Morton Thiokol, Inc.

Articles: Epoxy molding compounds

Merchandise: Epoxy cresol novolac resins; tetra acid dianhydride; fused silica

Factory: Ringwood, IL

Statement signed: June 28, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Los Angeles,
February 25, 1986

Revokes: T.D. 83-259-R

(T) Company: Ohio Pure Foods, Inc.

Articles: Grapefruit juice from concentrate and frozen concentrated grapefruit juice

Merchandise: Concentrated grapefruit juice for manufacturing

Factory: Akron, OH

Statement signed: August 29, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Chicago,
March 17, 1986

(U) Company: Olin Corporation

Articles: Copper alloy sheet in coil or strip, tubing, blanks, cups, and ammunition

Merchandise: Copper ingot and zinc bars

Factories: E. Alton (2), and Marion, IL; Waterbury, CT

Statement signed: November 27, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York, January 22, 1986

(V) Company: Riverbend Products, Inc.

Articles: Finished concentrated lemon juice for manufacturing

Merchandise: Concentrated lemon juice for manufacturing

Factories: Visalia, CA; Yuma, AZ

Statement signed: December 20, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Los Angeles (San Francisco Liquidation), March 14, 1986

(W) Company: Syntex Laboratories, Inc.

Articles: Granulated naproxen, tableted naproxen, and packaged tableted naproxen

Merchandise: Naproxen, pharmaceutical grade (d-2-(6'-methoxy-2-naphthyl), propionic acid)

Factory: Palo Alto, CA

Statement signed: November 7, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioners of Customs: Miami, Los Angeles, and Chicago, February 11, 1986

(X) Company: Syntex Chemicals, Inc.

Articles: [(\pm)-1 alpha-tetrahydropyranlyoxy-2 alpha-(2-hydroxy-3-butenyl)-3 beta-(3 alpha-tetrahydroxypyranlyoxy-4-phenoxy-1-trans-butenyl)-4 alpha-t-butylidimethylsiloxyxyclopentane] in toluene, or Fen-18

Merchandise: (\pm)-3-hydroxy-1-iodo-4-phenoxy-cis-but-1-ene; or IPG 7A

Factory: Boulder, CO

Statement signed: October 28, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioners of Customs: Miami, Los Angeles, and Chicago, January 15, 1986

(Y) Company: U.S. Reduction Company

Articles: Aluminum alloy ingots

Merchandise: Silicon metal and silicon metal alloy

Factory: Marietta, PA

Statement signed: October 28, 1985

Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Chicago,
March 17, 1986
Revokes: T.D. 79-213-X

(Z) Company: Vista Chemical Company
Articles: Alcohol and alumina
Merchandise: Aluminum powder
Factory: Westlake, LA
Statement signed: November 26, 1985
Basis of claim: Used in
Rate forwarded to Regional Commissioner of Customs: Houston,
February 6, 1986

Approval Under T.D. 84-49

(1) Company: TransAmerican Natural Gas Corporation
Articles: Middle distillate fuel oil and high sulfur residual fuel oil
Merchandise: Crude oil, classes I, II, and III
Factory: Good Hope, LA
Statement signed: October 28, 1985
Basis of claim: As provided in the drawback rate contained in T.D.
84-49
Rate forwarded to Regional Commissioner of Customs: New Orleans,
February 11, 1986

(T.D. 86-126)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued March 27, 1986, to May 29, 1986, inclusive, pursuant to Subpart C, Part 191, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

(DRA-1-09)

Dated: June 25, 1986.

File: 218915.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Abbott Laboratories

Articles: Intravenous amino acid injections (aminosyn)

Merchandise: Alanine; arginine; histidine; leucine; isoleucine; lysine acetate; methionine; phenylalanine; proline; serine; threonine; tryptophan; tyrosine; valine

Factory: North Chicago, IL

Statement signed: July 29, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Chicago,
April 3, 1986

(B) Company: American Chrome and Chemicals, Inc.

Articles: Chromium oxide

Merchandise: Sodium dichromate (anhydrous)

Factory: Corpus Christi, TX

Statement signed: January 28, 1986

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: New York,
May 27, 1986

(C) Company: American Standard, Inc.

Articles: Air conditioners and manufactured parts

Merchandise: Steel sheet, strip, blanks, plate by ASTM specification; galvanized steel sheet, strip, and blanks by ASTM specification; aluminized steel sheet by ASTM specification; copper tubing by ASME specification; aluminum sheet by ASME specification; air conditioner parts by unique part number

Factories: Charlotte, NC; Clarksville, TN; Fort Smith, AR; La-Crosse, WI; Lexington, KY; Minneapolis, MN; Montgomery, AL; Rushville, IN; Dunmore, PA; Trenton, NJ; Tyler, TX

Statement signed: October 31, 1985

Basis of claim: Used in, less valuable waste

Rate forwarded to Regional Commissioner of Customs: New York,
April 14, 1986

(D) Company: AT&T Technologies, Inc.

Articles: Fiberoptic cable/strands

Merchandise: Germanium tetrachloride and pure quartz (fused silica) tubes

Factory: Norcross, GA

Statement signed: January 16, 1986

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
May 29, 1986

(E) Company: BF Goodrich Company

Articles: Polyvinyl chloride, resins and compounds, polyblends and latexes

Merchandise: Vinyl chloride monomer

Factories: Various

Statement signed: April 9, 1986

Basis of claim: Appearing in

Rate issued by Regional Commissioner of Customs in accordance with section 191.25(b)(2), Customs Regulations: Boston (Baltimore Liquidation), May 8, 1986

Revokes: T.D. 80-280-G, to cover additional factories

(F) Company: Borden Industrial Food Products, Inc.

Articles: Filtered and refined lemon oil (finished lemon oil)

Merchandise: Raw lemon oil

Factory: Indio, CA

Statement signed: June 3, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Los Angeles and Los Angeles (San Francisco Liquidation), April 15, 1986

(G) Company: Borg-Warner Chemicals, Inc.

Articles: Plastic resin in pellet or powder form

Merchandise: Styrene monomer

Factories: Oxnard, CA; Ottawa, IL; Washington, WV

Statement signed: March 3, 1986

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: New York, April 29, 1986

Revokes: Unpublished authorization letter of February 11, 1986 (file DRA-1-09-CO:R:CD:D 218398)

(H) Company: General Electric Company

Articles: Transformers; concrete reactors; regulators; precipitators; rectifiers; bushings and arresters

Merchandise: Cable; paper; steel plate; steel sheet; steel sheet (electrical); porcelain insulators

Factories: Pittsfield, MA; Schenectady, NY; Rome, GA; Hickory, NC; and Shreveport, LA

Statement signed: March 17, 1986

Basis of claim: Appearing in

Rate issued by Regional Commissioner of Customs in accordance with section 191.25(b)(2), Customs Regulations: New York, April 4, 1986

Revokes: T.D. 85-1-R, to cover additional factory

(I) Company: Indol Color Co., Inc.

Articles: Color pigments, wet and dry

Merchandise: Dye intermediates, per T.D. 72-108(3)

Factories: Carteret and Newark, NJ

Statement signed: January 15, 1986

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: New York,
May 16, 1986

Revokes: T.D. 78-397-N

(J) Company: Juice Bowl Products, Inc.

Articles: Finished concentrated grapefruit juice

Merchandise: Concentrated grapefruit juice for manufacturing

Factory: Lakeland, FL

Statement signed: April 24, 1986

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Miami, May
20, 1986

(K) Company: Kaiser Aluminum and Chemical Corporation

Articles: Extruded magnesium products to customer specifications

Merchandise: Magnesium billets

Factory: Tulsa, OK

Statement signed: July 22, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
April 21, 1986

(L) Company: Lederle Parenterals, Inc.

Articles: Pharmaceuticals such as calcium leucovorin injections

Merchandise: Calcium leucovorin

Factory: Carolina, PR

Statement signed: November 8, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
April 3, 1986

(M) Company: Lykes Pasco Packing Co.

Articles: Orange juice from concentrate, frozen concentrated
orange juice, bulk concentrated orange juice, concentrated and
single strength punch

Merchandise: concentrated orange juice for manufacturing

Factory: Dade City, FL

Statement signed: January, 17, 1986

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Miami,
March 27, 1986

Revokes: T.D. 83-15-M and T.D. 85-139-J

(N) Company: Metal Container Corporation

Articles: Containers, can bodies, and parts thereof

Merchandise: Aluminum alloy sheets, coils, or strips

Factories: Jacksonville and Gainesville, FL; Columbus, OH; Arnold, MO

Statement signed: December 11, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioners of Customs: Chicago, and Los Angeles (San Francisco Liquidation), March 27, 1986

(O) Company: M.G.F. Industries, Corporation

Articles: Hot and cold heading wire—alloy steel and titanium

Merchandise: Alloy steel wire rod and titanium wire rod

Factory: Commerce, CA

Statement signed: May 2, 1986

Basis of claim: Used in less valuable waste

Rate forwarded to Regional Commissioner of Customs: Los Angeles, May 29, 1986

(P) Company: Permuthane Incorporated

Articles: Liquid resin solutions

Merchandise: Isophorone diisocyanate, tris (2-ethylhexyl) phosphate, isophorone diamine, hexanediol, ethylene carbonate, n-butyl acrylate and methyl methacrylate

Factory: Peabody, MA

Statement signed: February 10, 1986

Basis of claim: Used in

Rate issued by Regional Commissioner of Customs in accordance with section 191.25(b)(2), Customs Regulations: New York, March 31, 1986

Revokes: T.D. 85-190-T, to cover successorship from Polyvinyl/Permuthane Co.

(Q) Company: Permuthane Incorporated

Articles: Liquid resin solutions

Merchandise: Polyurax polyol PPG-1025 and N-methyl-2-pyrrolidone

Factory: Peabody, MA

Statement signed: December 26, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: New York, March 25, 1986

(R) Company: Pfizer, Inc.

Articles: Ground calcium metal, calcium wire, and calcium metal alloys

Merchandise: Calcium metal turnings

Factories: Canaan and Wallingford, CT

Statement signed: March 19, 1986

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
May 27, 1986

Revokes: T.D. 81-281-T

(S) Company: Standard Chlorine of Delaware, Inc.

Articles: 1,2,4-trichlorobenzene and 1,2,3-trichlorobenzene

Merchandise: Trichlorobenzene technical

Factory: Delaware City, DE

Statement signed: September 20, 1985

Basis of claim: Used in, with distribution to the products obtained
in accordance with their relative values at the time of separation

Rate forwarded to Regional Commissioner of Customs: New York,
April 10, 1986

(T) Company: Uniroyal Chemical Company, Inc.

Articles: Naugawhite

Merchandise: Paracresol

Factory: Naugatuck, CT

Statement signed: February 26, 1986

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
April 25, 1986

Revokes: T.D. 85-190-X

(U) Company: Uniroyal Tire Company, Inc.

Articles: Yarns; synthetic industrial fabrics

Merchandise: Modacrylic staple fiber

Factories: Ardmore, OK; Opelika, AL; Scottsville, VA; Eau Claire,
WI; Hogansville, GA; Winnsboro, SC

Statement signed: March 3, 1986

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: New York,
April 25, 1986

Revokes: T.D. 84-169-X

(V) Company: Uniroyal Tire Company, Inc.

Articles: Tires; tread rubber

Merchandise: Various chemicals, polyester fabric and cord, synthetic
rubber, polyethylene wrap, fiberglass tire cord, bronze-plated
bead wire, nylon tire cord, brass-plated steel tire cord

Factories: Ardmore, OK; Opelika, AL; Scottsville, VA; Eau Claire,
WI; Hogansville, GA; Winnsboro, SC

Statement signed: March 3, 1986

Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: New York,
May 27, 1986
Revokes: T.D. 83-254-X

(T.D. 86-127)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued May 14, 1985, to April 25, 1986, inclusive, pursuant to subparts A through C, inclusive, Part 191, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313 (a) and (b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded, and the date on which it was forwarded.

(DRA-1-09)

Dated: June 25, 1986.

File: 218914.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Agrigold, Inc. d/b/a Agrigold Juice Products
Section 1313(a) articles: Orange juice from concentrate
Section 1313(a) merchandise: Concentrated orange juice
Section 1313(b) articles: Canned fruit juice blends, canned fruit
juice drinks, and finished orange juice products
Section 1313(b) merchandise: Orange juice from concentrate
Factory: Anaheim, CA
Statement signed: April 15, 1985
Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Los Angeles,
May 14, 1985

(B) Company: Armstrong World Industries, Inc.
Section 1313(a) articles: Resilient vinyl sheet flooring
Section 1313(a) Merchandise: Di-2-ethylhexyl phthalate
Section 1313(b) articles: Resilient vinyl sheet flooring
Section 1313(b) merchandise: Di-2-ethylhexyl phthalate
Factory: Lancaster, PA
Statement signed: May 16, 1985

Basis of claim: Appearing in
Rate forwarded to Regional Commissioner of Customs: Boston (Bal-
timore Liquidation), September 26, 1985

(C) Company: Commodore Business Machines, Inc.

Section 1313(a) articles: Personal computers

Section 1313(a) merchandise: Keyboards; printed circuit boards;
power supplies

Section 1313(b) articles: Personal computers

Section 1313(b) merchandise: Keyboards; printed circuit boards;
power supplies

Factory: West Chester, PA

Statement signed: January 20, 1986

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Boston,
April 25, 1986

(D) Company: Glen Raven Mills, Inc.

Section 1313(a) articles: Yarn

Section 1313(a) merchandise: Rayon staple fiber

Section 1313(b) articles: Yarn

Section 1313(b) merchandise: Rayon staple fiber

Factories: Kings Mountain, NC; Macon, GA

Statement signed: August 27, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Miami, Sep-
tember 25, 1985

(E) Company: Glen Raven Mills, Inc.

Section 1313(a) articles: Yarn

Section 1313(a) merchandise: Polyester staple fiber

Section 1313(b) articles: Yarn

Section 1313(b) merchandise: Polyester staple fiber

Factories: Kings Mountain, NC; Macon, GA

Statement signed: August 27, 1985

Basis of claim: Appearing in

Rate forwarded to Regional Commissioner of Customs: Miami, Sep-
tember 25, 1985

(F) Company: The Lubrizol Corporation

Section 1313(a) articles: Same as in 1313(b)

Section 1313(a) merchandise: Polyalkylbenzene

Section 1313(b) articles: Sulfonic acid, basic calcium sulfonate and
finished lubricant additives

Section 1313(b) merchandise: Polyalkylbenzene and basic calcium
sulfonate

Factories: Painesville, OH; Deer Park, and Pasadena, TX

Statement signed: September 25, 1985

Basis of claim: Used in

Rate forwarded to Regional Commissioner of Customs: Chicago,
January 21, 1986
Revokes: T.D. 85-75-G

(T.D. 86-128)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued July 30, 1985, to March 24, 1986, inclusive, pursuant to subparts A and B, Part 191, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(a), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner who issued the rate, and the date on which it was signed.

(DRA-109)

Dated: June 25, 1986.

File: 218913.

EDWARD B. GABLE, Jr.,
Director,
Carriers, Drawback and Bonds Division.

(A) Company: Byron Jackson Pump
Articles: Centrifugal pump systems
Merchandise: Imported electrical motors and finished component parts
Factory: Charlotte, NC
Statement signed: August 2, 1985
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Miami, September 19, 1985

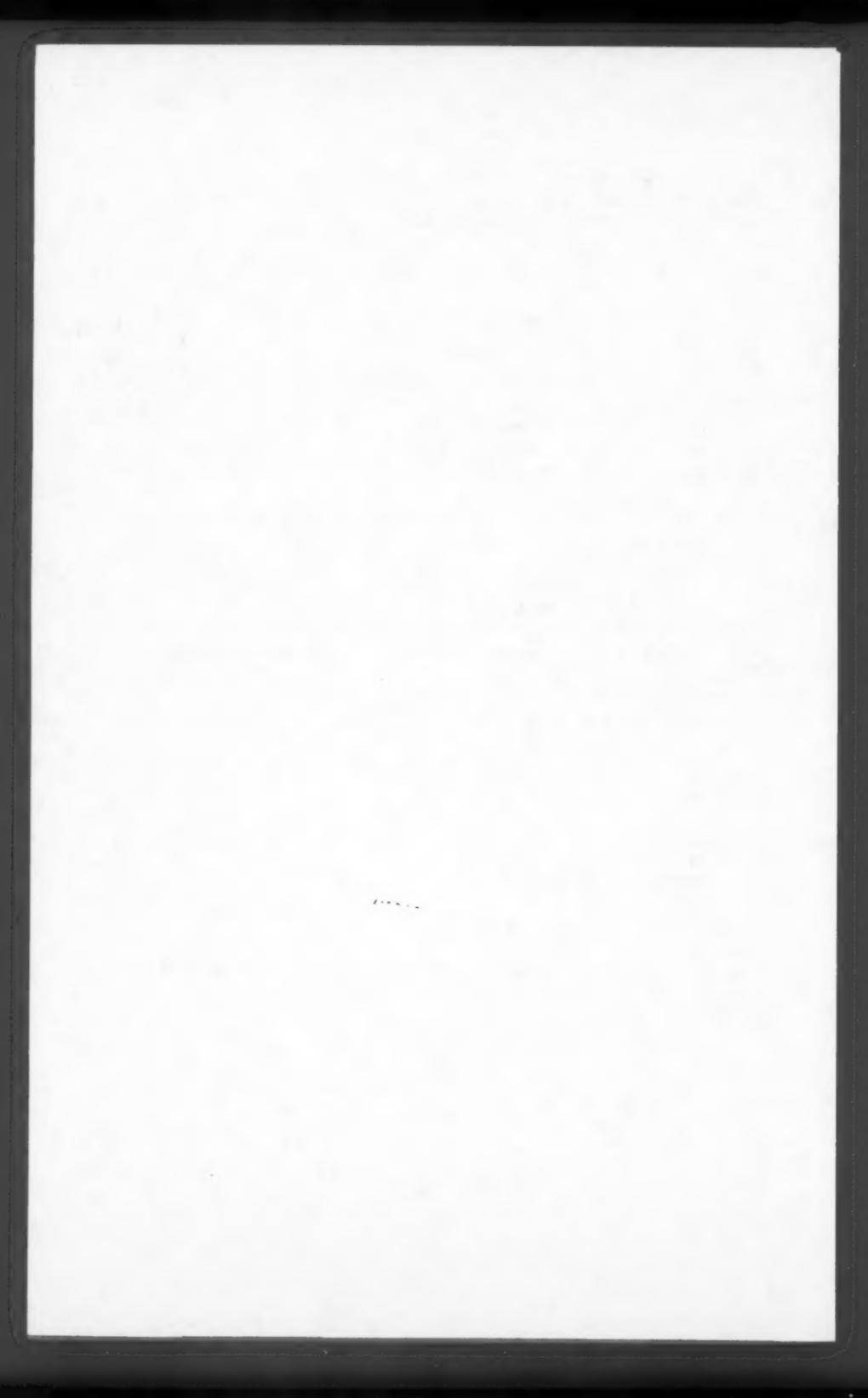
(B) Company: Seaside Paint and Lacquer Co., Inc.
Articles: Various lacquers and wood preservative
Merchandise: Imported nitro-cellulose wet with 30% IPA
Factory: Long Beach, CA
Statement signed: June 10, 1985
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Los Angeles, August 19, 1985

(C) Company: Southwest Electric Company
Articles: Electrical transformers
Merchandise: Imported component parts
Factory: Oklahoma City, OK
Statement signed: July 3, 1985
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Houston, July 30, 1985

(D) Company: U.S. Ilis Powder Manufacturing, Inc.
Articles: Ilis powder, Ilis jelly and yam noodle
Merchandise: Imported dried taro (Ilis)
Factories: Los Angeles and Gardena, CA
Statement signed: March 18, 1986
Basis of claim: Used in
Rate issued by Regional Commissioner of Customs: Los Angeles, March 24, 1986
Revokes: T.D. 85-140-H

(E) Company: WICAT Systems
Articles: Computer systems, peripherals and spare parts
Merchandise: Imported computer sub-assemblies and component parts
Factory: Provo, UT
Statement signed: April 7, 1985
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Houston, October 25, 1985

(F) Company: Zoecon Corporation
Articles: Sugar bait
Merchandise: Imported sugar
Factory: Dallas, TX
Statement signed: December 13, 1985
Basis of claim: Appearing in
Rate issued by Regional Commissioner of Customs: Houston, January 6, 1986



U.S. Customs Service

General Notices

19 CFR Part 24

Current IRS Interest Rate Used in Calculating Interest on Overdue Accounts and Refunds

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public that the adjusted rate of interest to be charged or paid by Customs on applicable overpayments or underpayments of Customs duties will decrease from 10 to 9 percent on July 1, 1986. This rate is set by the Internal Revenue Service and is subject to change twice a year. It is being published for the convenience of the importing public and Customs personnel. A schedule of rates for prior periods is also included.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Hamilton, Revenue Branch, National Finance Center, U.S. Customs Service, P.O. Box 68901, Indianapolis, IN 46268 (317) 298-1200.

SUPPLEMENTARY INFORMATION:

BACKGROUND

By T.D. 85-93, published in the Federal Register on May 29, 1985 (50 FR 21832), Customs advised the public that, in order to implement §§ 621 and 210 of Pub. L. 98-573, the Trade and Tariff Act of 1984, interest on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established in 26 U.S.C. 6621 and 6622. This determination covers antidumping and countervailing duty payments, and increased or additional Customs duties determined to be due on a liquidation or reliquidation of an entry. In addition, T.D. 85-93 also stated that it has been determined that a uniform interest payment system should be established and that refunds pursuant to a court determination and payable under 28 U.S.C. 2644, and interest on overpayments and underpayments of estimated excise taxes determined at liquidation shall be assessed at the rate prescribed under 26 U.S.C. 6621 and 6622.

Although T.D. 85-93 stated that the current semiannual interest rate may be obtained from the IRS or any Regional Customs Financial Management Office at any time, Customs received a suggestion that it regularly publish the current interest rate in the CUSTOMS BULLETIN and Federal Register for the convenience of the importing public and Customs personnel. Customs agreed that this would be beneficial and has published interest rate notices previously and will continue to publish future notices.

ACTION

The rate of interest for the period of July 1, 1986-December 31, 1986, is 9 percent. This rate will remain in effect until January 1, 1987, when it is subject to change.

PREVIOUS INTEREST RATES

The following table includes the interest rates applicable to the 6-month periods since July 1, 1984. These are the rates applied to outstanding accounts from the particular periods.

Period	Rate
July 1, 1984-December 31, 1984	11 percent
January 1, 1985-June 30, 1985	13 percent
July 1, 1985-December 31, 1985	11 percent
January 1, 1986-June 30, 1986	10 percent

Dated: June 26, 1986.

ALFRED R. DE ANGELUS,
Acting Commissioner of Customs.

[Published in the Federal Register, July 3, 1986 (51 FR 24323)]

19 CFR Parts 19 and 144

Notice Concerning Status of Customs Regulations Relating to Duty-Free Stores

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of status of proposed regulations.

SUMMARY: This document informs the public that Customs is taking no further action at the present time with respect to the advance notice of proposed rulemaking relating to duty-free stores, which was previously published in the Federal Register. This action is being taken because of Congressional opposition towards Customs enactment of any rules or regulations relating to duty-free stores until Congress takes some action on this issue.

DATE: July 7, 1986.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Cargo Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8151).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 21, 1983, Customs published an advance notice of proposed rulemaking in the Federal Register (48 FR 33318), pertaining to the administration of duty-free stores. In that document Customs outlined the problems posed by duty-free stores relating to the smuggling of goods into other countries and the illegal reentry or diversion of goods into the U.S.; disputes over operating rights among prospective stores, existing stores, and public authorities; and complaints of purchasers of duty-free store merchandise.

Because of the administrative expense and problems associated with the operation of duty-free stores, Customs considered various options, which include proposing either the complete or partial abolition of these stores or allowing them to exist only in locations where the merchandise can be delivered to purchasers beyond the exit point from the U.S., and the incorporation of duty-free store operating procedures into Parts 19 and 144, Customs Regulations (19 CFR Parts 19 and 144). After consideration of the almost 1000 comments received in response to the advance notice, Customs prepared a notice proposing not to abolish any duty-free stores, but to require new and existing stores to meet certain requirements in order to continue in operation. It was also proposed to incorporate specific duty-free store operating procedures into Parts 19 and 144, Customs Regulations, so as to improve Customs control over the stores. However, before the second notice was approved and published, by § 114 of Pub. L. 98-473 (Continuing Appropriations for Fiscal Year 1985), dated October 4, 1984, Congress prohibited Customs use of any funds made available by that Act or any other Act, to propose or promulgate any rules or regulations relating to duty-free stores.

This action precluded Customs from enacting any regulations pertaining to duty-free stores until October 1, 1985, at the earliest. However, the House of Representatives' Committee on Appropriations, on pages 15 and 16 of House Report 99-210, accompanying H.R. 3036, dated July 18, 1985, took the view that the Congressional restriction on the use of funds for the enactment of duty-free store regulations did not lapse on September 30, 1985, but remained in effect beyond the end of Fiscal Year 1985.

DETERMINATION

In view of the Congressional opposition to the use of funds by Customs for enacting duty-free store regulations, we are taking no

further action at this time with respect to this regulatory action. However, because we are still of the opinion that the Customs Regulations should be amended to include procedures relating to the operation of duty-free stores, efforts will be made towards this goal.

DRAFTING INFORMATION

The principal author of this document was Susan Terranova, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: June 24, 1986.

MICHAEL H. LANE,
Assistant Secretary of the Treasury.

[Published in the Federal Register, July 7, 1986 (51 FR 24535)]

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 191

Withdrawal of Proposed Customs Regulations Amendment Relating to Exemptions for Claimants Under Same Condition Drawback

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws the proposed amendment to the Customs Regulations which would have removed the exemption given same condition drawback claimants from the requirement of certifying whether or not the merchandise to be exported or already exported was sold to the U.S. Government. Upon further review, it has been determined advisable not to proceed with the proposal.

DATE: Withdrawal effective on July 7, 1986.

FOR FURTHER INFORMATION CONTACT: Russell A. Berger, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

BACKGROUND

By notice published in the Federal Register on November 5, 1985 (50 FR 45919), it was proposed to amend § 191.11(b), Customs Regulations (19 CFR 191.11(b)), relating to claims for drawback of Customs duties, by removing the exemption given same condition drawback claimants from the requirement of certifying whether or not the merchandise to be reported or already exported was sold to the U.S. Government. The notice, which explained the proposal, invited comments before any final action was taken. No comments were received and, after further review, it has been determined that the proposal should not be adopted. Accordingly, the notice is being withdrawn.

ACTION—WITHDRAWAL OF PROPOSAL

Based upon further consideration of the matter, Customs has determined that the proposed amendment should not be implemented. Accordingly, the notice published in the Federal Register on November 5, 1985 (50 FR 45919), is withdrawn.

DRAFTING INFORMATION

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

WILLIAM VON RAAB,
Commissioner of Customs.

Approved: June 24, 1986.

MICHAEL H. LANE,
Assistant Secretary of the Treasury.

[Published in the Federal Register, July 7, 1986 (51 FR 24536)]

United States Court of International Trade

One Federal Plaza
New York, N.Y. 10007

Chief Judge

Edward D. Re

Judges

Paul P. Rao	Dominick L. DiCarlo
James L. Watson	Thomas J. Aquilino, Jr.
Gregory W. Carman	Nicholas Tsoucalas
Jane A. Restani	

Senior Judges

Morgan Ford

Frederick Landis

Herbert N. Maletz

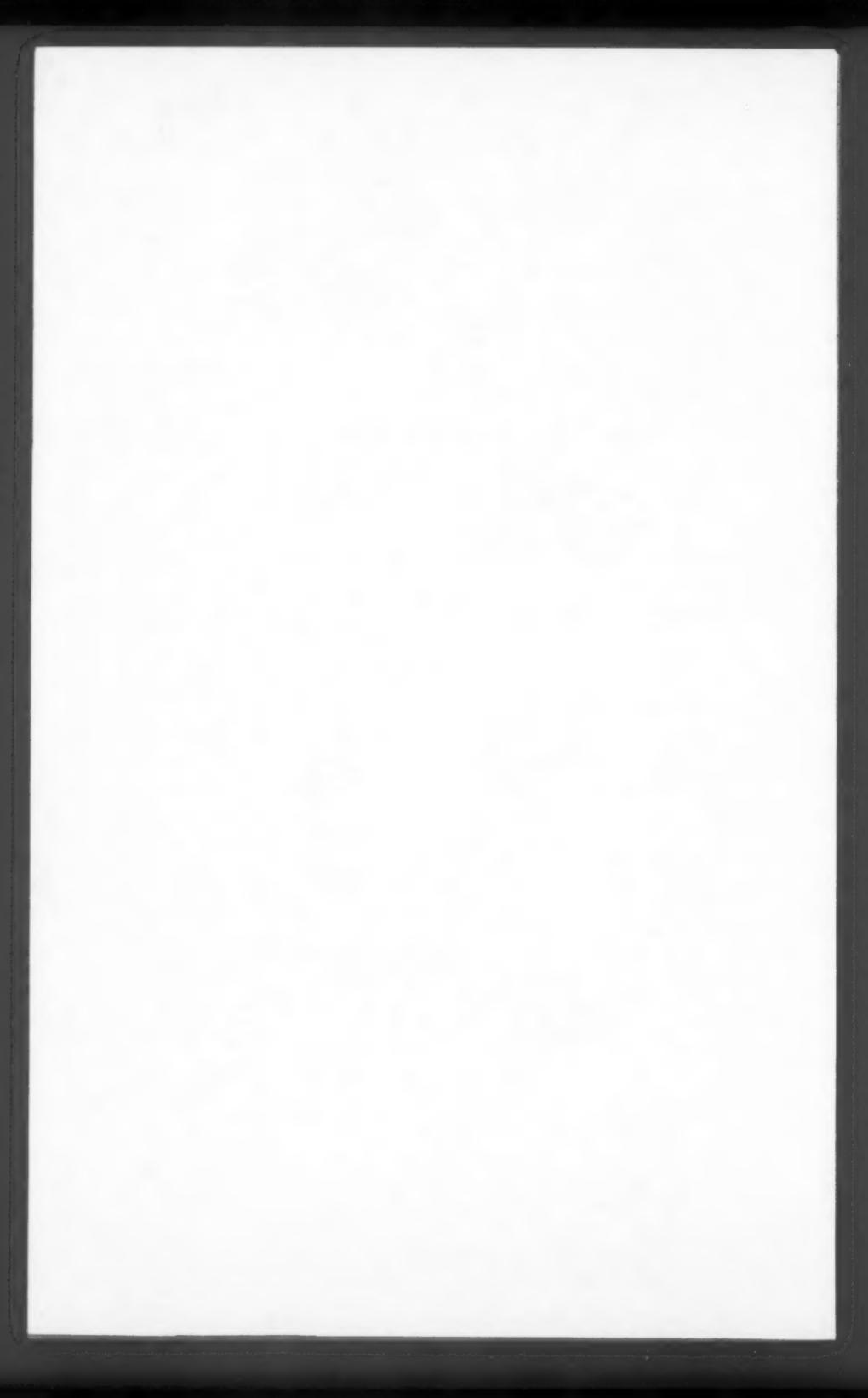
Bernard Newman

Samuel M. Rosenstein

Nils A. Boe

Clerk

Joseph E. Lombardi



Decisions of the United States Court of International Trade

(Slip Op. 86-64)

HERAEUS-AMERSIL, INC., PLAINTIFF v. UNITED STATES, DEFENDANT

Consolidated Court No. 81-1-00100

Before CARMAN, Judge.

MEMORANDUM OPINION

[Defendant's motion for the return of monies paid granted.]

(Decided June 5, 1986)

Fitch, King and Caffentzis (Richard C. King, Peter Fitch and James Caffentzis) for the plaintiff.

Richard K. Willard, Assistant Attorney General; *Joseph I. Liebman*, Attorney in Charge, International Trade Field Office, Commercial Litigation Branch, Civil Division (*John J. Mahon*) for the defendant.

CARMAN, Judge: In this case, on appeal before the United States Court of Appeals for the Federal Circuit, defendant applied to this Court for an order to show cause and moved for return of monies paid to plaintiff. The Court duly ordered a hearing requiring plaintiff to show cause why it should not return the sum of \$18,349.27 mistakenly refunded to it by the United States Customs Service (Customs). At the hearing, plaintiff raised questions of the Court's jurisdiction because of the appeal pending in the Court of Appeals. The Court stayed the proceedings at the hearing and directed the defendant to make application for the relief sought before the Court of Appeals. Defendant made such application and subsequently the Court of Appeals ordered this Court to

proceed with the expeditious resolution of the dispute between the parties over the refund of the payment made by the Customs Service to Heraeus-Amersil, Inc., taking such action as may appear to it to be necessary or desirable to restore the status quo prior to the error of its supporting personnel in mistakenly forwarding papers to the Customs Service.

This Court then continued the hearing on the order to show cause on June 5, 1986. At the conclusion of the presentations by the parties, the Court ordered that the monies be repaid.

FACTS

On June 6, 1985, the Court issued Slip Op. 85-60 granting judgment for plaintiff and upholding plaintiff's claimed classification of fused quartz and fused silica on the basis of an established and uniform practice. However, the Court limited its holding to Court No. 81-1-00100 covering entry number 188,596 only. Because additional entries had been severed from other cases and consolidated with Court No. 81-1-00100, confusion arose over the application of the Court's holding to the various entries involved. The Court therefore granted defendant's motion for amendment and/or rehearing in Slip Op. 85-88 and vacated the prior opinion and judgment in Slip Op. 85-60. In Slip Op. 85-88, the Court granted plaintiff's motion for summary judgment only as to six entries which had been made before December 30, 1977.

On October 24, 1985, defendant filed an appeal and on November 6, 1985, plaintiff was permitted to file an interlocutory appeal. However, on November 5, 1985, according to the affidavit of Vito Gualario, at that time Head of the Residual Liquidation Section for the New York Region, United States Customs Service, Customs received entry papers from the Clerk of the Court of International Trade for all nine entries subject of Consolidated Court No. 81-1-00100, along with copies of Slip Op. 85-60 and its accompanying Judgment Order and page 2 only of Slip Op. 85-88, which listed the nine entry numbers with their corresponding protest and court numbers. As there was no indication in the papers that the consolidated civil action was not final, Customs attempted to reliquidate all of the entries in Consolidated Court No. 81-1-00100 under the provisions claimed correct by plaintiff and mistakenly issued refunds to the importer in the amount of \$13,503.77, plus \$4,845.50 in interest payments.

Subsequently, in letters dated January 14, 1986, and March 6, 1986, government counsel demanded the return of the monies since the case was on appeal and no final judgment had been entered. *See Affidavit of John J. Mahon 4.* Upon refusal of plaintiff to return the monies, defendant filed its application for an order to show cause on April 22, 1986.

OPINION

At the continued hearing on the order to show cause, plaintiff again challenged the Court's jurisdiction to provide relief in this matter, this time arguing that the defendant failed to exhaust its administrative remedies. The only arguable remedy, maintained plaintiff, would have been for defendant to proceed under 19 U.S.C. § 1501 (1982),¹ the provision for voluntary reliquidations. Since sec-

¹ 19 U.S.C. § 1501 reads in part:
Voluntary reliquidations by appropriate customs officer; notice

Continued

tion 1501 requires voluntary reliquidation to occur within 90 days from notice to the importer of the *original* liquidation, plaintiff apparently concludes that there is no statutory remedy available to defendant to correct the mistaken refund to plaintiff.² Regardless, plaintiff contends that defendant has not pursued administrative remedies that would lead to an event upon which the Court's jurisdiction could be based under 28 U.S.C. § 1581 (1982).

The Court's jurisdiction in this case, however, arose when plaintiff brought action under 28 U.S.C. § 1581(a) challenging Customs' denials of its protests. When the Court rendered judgment on August 27, 1985, it was not divested of jurisdiction to ensure the proper implementation of its judgment or compliance with statutory procedures pending the finality of its judgment. Although Customs' refund of monies was ostensibly pursuant to the Court's order of August 27, 1985, it was not in accordance with that order since the refund was based upon attempted reliquidations of nine entries rather than upon the six entries called for by the order. Further, Customs did not carry out the refund pursuant to a final court order since the case was on appeal. *See* 28 U.S.C. § 2645(c) (1982) (pertaining to the finality of judgments unless rehearing granted or appeal taken). This Court thus has authority and responsibility to implement the Order of the Court of Appeals and take "such action as may appear * * * necessary or desirable to restore matters to the status quo prior to the error" resulting in the refund of monies. Such authority is indispensable to ensuring the Government's security as contemplated by 19 U.S.C. § 1514(a) (1982), which provides for the reliquidation of entries or refund of duties only after a court judgment has become final. *American Grape Growers Alliance v. United States*, 9 CIT —, 622 F. Supp. 295 (1985), further supports the proposition that the Court has inherent power to oversee the implementation of its judgment and hold supplemental proceedings necessary for the proper effectuation of its judgment. *See id.* at 297. In *American Grape Growers*, the court found that 28 U.S.C. § 2645(c) was not a bar to enforcing its judgment when an appeal in antidumping and countervailing duty proceedings has been taken. In the case now at bar, the Court's power is even more compelling, since it is merely ensuring the maintenance of the status quo pending the appeal as the statutory scheme requires. Finally this Court has authority pursuant to 28 U.S.C. § 1651(a) (1982) to issue writs necessary in aid of its jurisdiction. The Court accordingly ordered plaintiff to return the monies to Customs pending a final court decision in this case.

² A liquidation made in accordance with section 1500 of this title or any reliquidation thereof made in accordance with this section may be reliquidated in any respect by the appropriate customs officer on his own initiative, notwithstanding the filing of a protest, within ninety days from the date on which notice of the original liquidation is given to the importer, his consignee or agent * * *.

² The subject entries were originally liquidated in 1978 and 1981. *See Heraeus-Amersil, Inc., v. United States*, 9 CIT —, 617 F. Supp.

ABSTRACTED CLA

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSE
				Item No.
C86/105	Restani, J. June 17, 1986	FAG Bearings, Ltd.	80-2-00354	Item 680. Various
C86/106	Restani, J. June 17, 1986	FAG Bearings, Ltd.	81-3-00322	Item 680. Various
C86/107	Restani, J. June 17, 1986	FAG Bearings, Ltd.	81-6-00761	Item 680. Various
C86/108	Newman, S.J. June 17, 1986	Panasonic Co.	84-12-01786	Item 720. \$0.95 ea. +13.6%

CLASSIFICATION DECISIONS

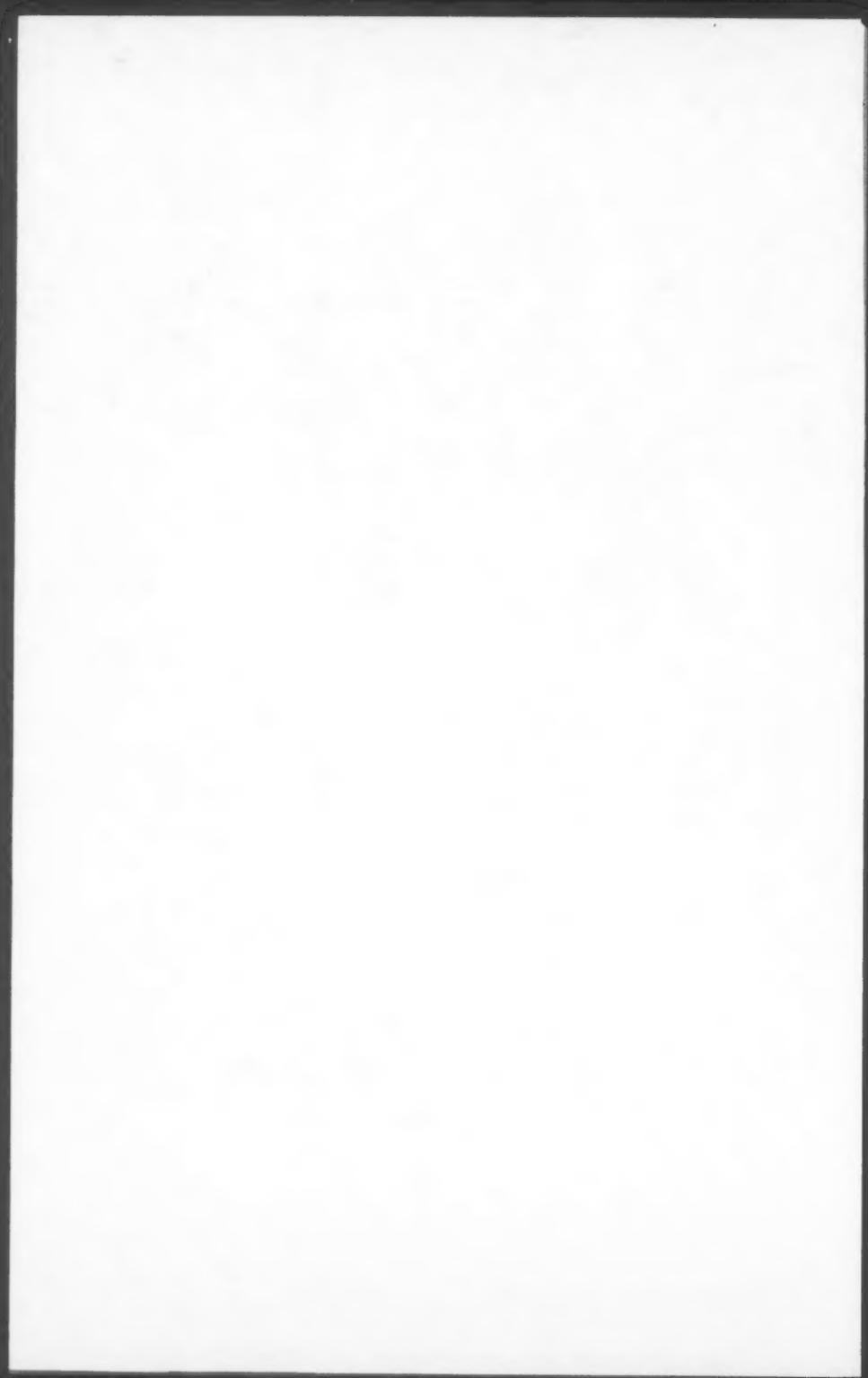
ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
Item No. and rate	Item No. and rate		
Item 680.35 Various rates	Item 680.33 5%	FAG Bearings, Ltd. v. U.S., S.O. 85-52	Detroit Combination ball/roller bearings
Item 680.35 Various rates	Item 680.33 6%	FAG Bearings, Ltd. v. U.S., S.O. 85-52	Detroit Combination ball/roller bearings
Item 680.35 Various rates	Item 680.33 5.8%	FAG Bearings, Ltd. v. U.S., S.O. 85-52	Detroit Combination ball/roller bearings
Item 720.18 \$0.95 each 13.6%	Item 685.40 5.1%	Agreed statement of facts	Tacoma Video tape and video-cassette recorders which incorporate timer devices

ABSTRACTED

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS VALUE
V86/179	Rao, J. June 17, 1986	Singer Co.	77-5-00820	Export val...
V86/180	Rao, J. June 17, 1986	Singer Co.	81-4-00404	Export val...
V86/181	Rao, J. June 17, 1986	Singer Co.	82-10-01372	Export val...
V86/182	Rao, J. June 17, 1986	Singer Co.	83-4-00625	Export val...
V86/183	Newman, S.J. June 17, 1986	Mitsubishi International Corp.	83-2-00196, etc.	American se... price
V86/184	Newman, S.J. June 17, 1986	Mitsubishi International Corp.	83-8-01121, etc.	American se... price
V86/185	Rao, J. June 19, 1986	Singer Co.	83-3-00353	Export val...

TED VALUATION DECISIONS

BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
rt value	Various appraised values shown on entry papers less 28.5% or appraised values on Singer Model 2020 and 2021 needles, less 28.5% for Singer Model 2045 needles	Hensel Bruckmann & Lor-bacher, Inc. v. U.S., S.O. 83-57, aff'd. 735 F.2d 1340 (1984)	Boston Industrial sewing machine needles
rt value	Various appraised values shown on entry papers less 28.5% or appraised values on Singer Model 2020 and 2021 needles, less 28.5% for Singer Model 2045 needles	Hensel Bruckmann & Lor-bacher, Inc. v. U.S., S.O. 83-57, aff'd. 735 F.2d 1340 (1984)	Boston Industrial sewing machine needles
rt value	Various appraised values shown on entry papers less 28.5%	Hensel Bruckmann & Lor-bacher, Inc. v. U.S., S.O. 83-57, aff'd. 735 F.2d 1340 (1984)	Boston Industrial sewing machine needles
rt value	Various appraised values shown on entry papers less 28.5%	Hensel Bruckmann & Lor-bacher, Inc. v. U.S., S.O. 83-57, aff'd. 735 F.2d 1340 (1984)	Boston Industrial sewing machine needles
merican selling ce	Appraised values less 22% per pair	Agreed statement of facts	Boston Footwear
merican selling ce	Appraised values less 22% per pair	Agreed statement of facts	New York Footwear
rt value	Appraised values shown on entry papers less 28.5%	Hensel Bruckmann & Lor-bacher, Inc. v. U.S., S.O. 83-57, aff'd. 735 F.2d 1340 (1984)	Boston Industrial sewing machine heads



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